

New Zealand.

AN ACT to provide for the general control and management of Ports Pilots Lighthouses and other matters relating to Navigation and the regulation of Port charges and other rates.

Title.

WHEREAS the existing provisions for the general control and management of Ports Harbours Wharves Docks Pilots Lighthouses and other matters relating to navigation and shipping in the colony have been found inconvenient in practice

Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled and by the authority of the same as follows—

I. The Short Title of this Act shall be “The Marine Act 1867.”

Short Title.

II. “The Marine Act 1866” hereinafter referred to as the said Act shall be and the same is hereby repealed Provided that all delegations of authority rules and regulations bye-laws appointments of pilots definitions of ports certificates of exemption and license made pursuant to or kept on foot by the said Act and in force up to the time of this Act coming into operation shall continue in force as if made under this Act until revoked or altered under the authority of this Act and no longer And all fines and penalties incurred under the said Act or the Acts thereby repealed and all convictions judgments or other proceedings for the recovery of the same or otherwise which shall be unsatisfied or incomplete at the time of this Act coming into operation shall continue and be enforceable as if the same had been made obtained or continued respectively under the provisions of this Act and where such provisions are inapplicable as if this Act had not been passed.

Repeal clause.

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Interpretation clause

III. In the construction and for the purposes of this Act and of all proceedings under this Act the following words shall have the meanings hereinafter assigned to them unless there is something in the context of the Act repugnant to such construction—

“Port” shall extend to and include any port harbour or haven or navigable creek or river or lake or inland water within the limits defined for such port.

“Wharf” shall extend to and include any public wharf quay or pier or any place used for the landing of goods or passengers situate within any “Port” the management of which is not otherwise provided for by law.

“Collector of Customs” shall include the person acting as such at the port in respect of which the term is used.

“Master” shall extend to and include the person not being a pilot commanding or for the time being having the principal or actual charge custody or control of a vessel.

“Colonial Ports” shall mean all ports within the Colony and within the Australian Colonies.

“Colonial Trading Vessel” shall mean and intend a vessel actually trading between Colonial Ports and the Master of which has at any time made more than two voyages to the port in this Colony in which such vessel may be.

“Port Charges” shall mean and include all lighthouse pilotage and other dues and payments by this Act or by any Rules Regulations or Bye-laws to be made pursuant to this Act made payable by the master of any ship or vessel in respect of such ship or vessel.

Governor to exercise powers of the British Board of Trade.

IV. The Governor shall have and exercise within the Colony all the powers *mutatis mutandis* which are in and by the Acts of the Imperial Parliament entitled “The Merchant Shipping Act 1854” and “The Merchant Shipping Act Amendment Act 1862” vested in the Board of Trade Provided always that it shall not be lawful for the Governor to alter or interfere with any provisions or rules now or at any time hereafter to be in force relating to the ownership measurement or registry of British ships under or by virtue of the said Acts or either of them.

Certain powers to be vested in the Governor in Council.

V. Where by the said “Merchant Shipping Act 1854” any power may be exercised by the Board of Trade with the assistance of the Commissioner of Customs such power may be exercised by the Governor in Council.

Governor in Council may delegate powers.

VI. The Governor may by Order in Council from time to time delegate all or any of the powers and authorities vested in him by this Act unto any person or persons for any period and subject to any regulations restrictions or stipulations which may be specified in such order and every such delegation may from time to time alter or revoke Provided that any such alteration or revocation shall not affect the validity of instruments completed or acts done during the existence of such delegation and such delegation of authority may be either generally for the whole Colony or may be specially for any particular port or ports thereof to be specified in the document whereby the powers duties and authorities shall be delegated Provided also that any such delegation may be so made to any person holding office in or under the General Government of New Zealand or in or under any Provincial Government thereof by the title of his office and may be therein expressed to be made to such officer and his successors in such office and when so expressed to be made the powers and authorities thereby delegated shall from time to time

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until revocation thereof be held and exercised only by the person for the time being holding such office and by no other person.

VII. The Governor may—

Define for the purpose of this Act the limits of any port.

Fix and levy port charges.

Erect superintend and maintain harbour marks buoys lights and beacons now or hereafter to be placed within the limits of any port or the approaches thereto.

Appoint and suspend or remove port or harbour masters and other officers of the port or harbour.

Define and regulate the conduct and duties of port or harbor masters and other persons employed in carrying out the objects of this Act within any port.

Powers to the Governor respecting ports and harbours.

VIII. The Governor may purchase and acquire any lighthouses beacons buoys or sea marks belonging to any Province And the same and all buoys beacons and sea marks within the Colony or the coasts harbors navigable streams or estuaries thereof shall vest in the Governor.

Buoys &c. to vest in the Governor.

IX. It shall be lawful for the Governor in Council or his delegate or delegates appointed hereunder at any time to cancel and annul any certificates or licenses granted or issued and any rules regulations or bye-laws made by any Board or any Marine Board or otherwise under the Acts heretofore and hereby repealed or either of the said Acts and also to cancel and annul any rules regulations or bye-laws and any appointments and any definitions of limits of any port made by any Superintendent under or by virtue or in exercise of any power contained in any of the said Acts and also to cancel and annul any rules regulations or bye-laws made by any Superintendent under the said Acts relating to the performance of any duties or functions which by this Act are vested in the Governor or the Governor in Council.

Governor in Council may cancel certificates &c.

PILOTS AND PILOTAGE.

X. The Governor is hereby empowered to appoint all pilots and to provide for the maintenance of pilot establishments and remuneration of pilots and to regulate the duties and conduct of pilots and to fix the pilotage rates which shall be payable at each port not being greater than the rates specified in the Schedule to this Act and to determine the nature of the services for which such rates respectively shall be payable the time of payment and the amount to be paid for detention of pilots on board vessels under quarantine or otherwise Provided that the Governor may at any time suspend or dismiss any pilot from acting.

The Governor empowered to appoint pilots.

XI. No person shall be appointed or continue to be a pilot at any port unless he shall have first passed such an examination as the Governor shall have prescribed in that behalf and shall have received and shall continue to hold a certificate of competency or license.

Pilots to be examined.

XII. If any person not licensed and appointed as a pilot for any port shall assume or continue in the charge of any ship at such port as a pilot after a licensed pilot appointed for such port has offered to take charge of her or shall use a license which he is not entitled to use for the purpose of making himself appear to be a licensed pilot he shall for each offence incur a penalty not exceeding fifty pounds.

Penalty on person illegally piloting.

XIII. Every pilot who at the time of the commencement of this Act is legally licensed as a pilot shall during the continuance of such license and until he be suspended or dismissed be deemed to be licensed as a pilot under this Act.

Pilots who have been licensed under former law to act.

XIV. No pilot shall in any case conduct a vessel to sea from any port until the full amount of pilotage according to the rates for the time being fixed and established for such port has been paid.

Rates of pilotage to be fixed and prepaid.

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Extra charge for detention of pilot

XV. If any pilot in charge of a vessel entering into or proceeding out of any port remains on board such vessel whilst under quarantine or is delayed in the performance of his duty by any act of the master the master or owner shall for every day the pilot remains on board or is delayed as aforesaid pay in addition to the amount of pilotage so fixed as aforesaid such sum as may from time to time be directed by the Governor and such additional amount shall be a port charge on the vessel.

Certain vessels exempt from pilotage

XVI. The Governor is hereby empowered by a certificate to be issued as hereinafter mentioned to exempt from pilotage such Colonial trading vessels as to him shall seem proper to be so exempted during such time as they shall continue to be navigated by masters holding such certificates which certificates shall specify the name of the master and of the vessel and shall state that the master is qualified to conduct and navigate his vessel into and out of the port or ports therein named and a register containing a counterpart of each certificate shall be kept by the Governor of all such Colonial trading vessels and the masters thereof who have received such certificates and all Colonial trading vessels so exempted during such exemption shall unless the master shall employ a pilot pay only one full rate of pilotage in and out of each such port in every year Provided that no such exemption shall be available unless the master shall when required by the Collector of Customs of the port or by any licensed pilot who may board the vessel produce and permit to be read by him the said certificate of exemption and unless from the time of approaching within three leagues of the port shore to the time of her anchoring in the port there shall be kept at the mast or main masthead of such vessel such distinguishing flag as the Governor shall from time to time for that purpose direct. Provided also that vessels exempted from pilotage at the commencement of this Act shall so continue for six months thereafter only unless further exempted pursuant to the provisions of this Act.

Fees for certificates and renewals

XVII. From and after the passing of this Act—

For every such certificate of exemption excepting such of them as are in this clause after mentioned there shall be paid a fee of	£5	5	0
And for each renewal of the same in respect of the change of vessel by the master there shall be paid a fee of	...	1	1 0
For every such certificate of exemption for sailing vessels under fifty tons and over twenty tons of registered or measured burthen there shall be paid a fee of	...	2	2 0
And for each renewal thereof there shall be paid a fee of	...	0	15 0
And for every such certificate of exemption for sailing vessels under twenty tons of registered or measured burthen exclusively employed in the coasting trade of New Zealand there shall be paid a fee of	...	0	10 0
And for each renewal thereof there shall be paid a fee of	...	0	2 6

Penalty on masters evading pilotage.

XVIII. If any vessel not exempt from pilotage proceeds to sea from any port for which a pilot is so licensed as aforesaid or quits her station or anchorage in such port in order to proceed to sea without receiving on board some pilot so licensed for the purpose of conducting her to sea the master of such vessel shall over and above the amount which would

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have been payable for pilotage if a pilot's services had actually been engaged forfeit a penalty not exceeding fifty pounds.

XIX. If the master of any vessel not exempt from pilotage arriving from any place beyond the sea at or off any port for which a pilot is so licensed as aforesaid and intending to enter such port does not immediately upon demand receive on board such vessel the licensed pilot who first offers himself to conduct her into port or does not forthwith upon demand and upon the pilot producing if required his license give the vessel in charge to such pilot the master offending shall over and above the amount which would have been payable for pilotage if the pilot's services had actually been accepted forfeit a penalty not exceeding fifty pounds.

Penalty on masters refusing or hindering pilot.

LIGHTHOUSES.

XX. The Governor shall have the management and control of and is hereby charged with maintenance and reparation of the several lighthouses lightships sea marks and beacons erected or to be erected on the coast of this Colony and subject to the provisions of this Act shall have all the powers and jurisdiction in respect of such lighthouses and lightships which the Guild or Fraternity commonly called the Corporation of the Trinity House of Deptford Strond has and exercises or may hereafter have and exercise within the United Kingdom.

Governor to manage and control coast lights

XXI. The Governor is hereby authorized to do all things necessary for the erection and establishment of new lighthouses and lightships sea marks and beacons which he may determine to be necessary or desirable.

Provision for erection of lighthouses &c.

XXII. It shall be lawful for the Governor to fix the various rates of lighthouse dues not exceeding those specified in the Schedule to this Act which shall be payable at any port or ports within the Colony in respect of all vessels arriving at and of all vessels leaving such ports by the master of every such vessel and such dues from time to time to alter.

Governor may fix light dues

XXIII. Whenever any fire or light is burnt or exhibited at such place or in such manner as to be liable to be mistaken for a light proceeding from a lighthouse it shall be lawful for the Governor to serve a notice upon the owner of the place where the fire or light is burnt or exhibited or on the person having the charge of such fire or light either personally or by delivery at the place of abode of such owner or person or by affixing the same in some conspicuous spot near to such fire or light and by such notice to direct such owner or person within a reasonable time to be therein specified to take effectual means for the extinguishing or effectually screening such existing light and for preventing for the future any similar fire or light. And any owner or person disobeying such notice shall be deemed guilty of a common nuisance and in addition to any other penalties or liabilities of any kind thereby incurred shall incur a penalty not exceeding one hundred pounds.

Governor may prohibit false lights

XXIV. If any owner or person served with such notice as aforesaid neglects for a period of seven days to extinguish or effectually screen the fire or light therein mentioned it shall be lawful for the Governor by his servants or workmen to enter upon the place whereon the same may be and forthwith to extinguish such fire or light doing no unnecessary damage and all expenses incurred by the Governor in such extinction may be recovered from such person or owner as aforesaid in the same way as penalties are hereby directed to be recoverable.

If not obeyed Governor may abate such lights.

XXV. The sums of money expended or to be expended in establishing or maintaining harbor marks buoys and beacons now placed or hereafter to be placed within the limits of any port or harbor or the approaches thereto and not as coast marks buoys or beacons pursuant

Cost of harbour marks to be charged against Provinces.

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to the power for this purpose vested in the Governor by clause seven of the said Act shall be charged upon the revenues of the Province in which such port or harbor is or shall be situated.

Colonial Treasurer to charge cost of local marks against Provinces.

XXVI. The Colonial Treasurer is hereby authorised to charge against the revenues of any Province all sums so made chargeable by section twenty-five of this Act and to deduct the same accordingly.

SURVEYS AND OTHER DUTIES.

Governor may make marine surveys

XXVII. It shall be lawful for the Governor to authorize to be made and completed all such surveys of any port harbour or coast line of the Colony as may be requisite for the safety of shipping and all such surveys so made and completed shall be published by authority of the Governor.

QUARANTINE.

Quarantine regulations

XXVIII. The Governor shall from time to time as occasion may require make and issue Quarantine Regulations to be in force within any port or ports of the Colony Provided that all such Regulations shall before coming into operation be published in the *New Zealand Gazette* and in the *Gazette* of the Province to which the same shall relate.

OTHER POWERS OF GOVERNOR IN COUNCIL.

Other powers of Governor in Council

XXIX. It shall be lawful for the Governor in Council from time to time to make vary and repeal bye-laws for the prevention of overloading of either steam or sailing vessels and the overcrowding of sailing vessels with passengers and thereby to direct by whom such bye-laws shall be enforced and fix within variable limits the penalties to be incurred for the breach of such bye-laws or any of them not exceeding the sum of five hundred pounds on any one voyage or attempted voyage of any vessel to fix and authorise the levying of Harbour Masters' fees not exceeding the rate specified in the schedule to this Act to make vary and repeal such regulations as may be found necessary respecting the anchoring mooring and unmooring and removal of vessels in any port the packing landing shipping deposit and removal of gunpowder and other explosive substances and compounds and the erection or construction of magazines for the safe keeping of the same the watering and ballasting and discharging of ballast of or from vessels the management of piers jettys wharves or docks and the general regulation of the traffic on the same the construction and inspection of passenger and cargo boats ballast lighters and tank boats and all other matters relating to the protection of life and property of passengers and others and the safe and commodious navigation of any port harbor river or lake of the colony or the entrance to the same the fees for licenses to be paid by any waterman masters boatmen and others employed in working or navigating cargo boats ballast boats tank boats lighters and all other vessels and boats whatsoever whether decked or undecked or whether propelled by steam or not and the fees to be paid for licenses to be issued for or in respect of steam tugs cargo boats ballast boats tank boats lighters waterman's and other boats And by such regulations to enforce any penalty within variable limits not exceeding fifty pounds for any one offence for any breach or neglect or disobedience of any of such regulations and to direct to whom and for what purposes all fines and penalties to be imposed by any such regulations shall be paid.

POWERS AND DUTIES OF LOCAL AUTHORITIES.

Definition of powers and duties

XXX. The Superintendent of each Province is hereby empowered and required to perform the general duties and functions following within his Province—

To license boatmen plying for hire in any port and to collect the fees to be paid for such licenses and also the penalties on

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persons plying for hire without being licensed to regulate the fares to be charged by licensed watermen plying for hire within the ports in the Province to fix places at which licensed watermen shall ply and otherwise carry into effect any regulations as made by the Governor in Council relating to their conduct and proceedings and to the management and control of steam or other ferryboats plying for hire at wharves or public thoroughfares.

To license and from time to time inspect and also to appoint officers to inspect from time to time ballast-boats tank-boats cargo-boats lighters vessels whether decked or undecked and whether propelled by steam or not and all other vessels and boats whatsoever used or employed within any port of the Province for landing or embarking cargo passengers or luggage and also to license masters boatmen and others employed in working or navigating such vessels or boats as aforesaid and to collect the fees to be paid for such licenses and also to enforce all regulations concerning the supply of ballast and water to the shipping.

If necessary to license tugs for conducting vessels into and out of port and to collect the fees to be paid for such licenses.

To carry out and enforce the regulations concerning the berthing of vessels at wharves and in docks and the mooring and unmooring and removal of vessels and the number of days during which a vessel shall be permitted to occupy any berth and to fix and determine the depth of water to which vessels in any dock may be loaded whilst in such dock.

To carry out and enforce all regulations of the Governor and Council for the convenience of persons walking upon or landing on or embarking from any wharf for regulating the shipping or landing of goods merchandise or other commodities at or from any dock or wharf the nature of the goods merchandise or other commodities which may or may not be shipped or landed and the mode and time of shipping and landing the same for the cleansing repair and effectual preservation of docks and wharves for the governing and regulation of porters carters carmen and others carrying goods or using or driving horses waggons carts drays trucks or other carriages for conveying passengers goods merchandise or other commodities to or from docks or wharves for the convenience of persons using or resorting to the same and otherwise generally for the better governance regulation and management safety and protection of the ports docks wharves and shipping and subject to such regulations when made and so far as any such regulations when made shall not extend to make and enforce supplementary regulations for any of the purposes last aforesaid and to impose and enforce the payment of penalties not exceeding five pounds for any one offence for the breach of any of such supplementary regulations.

From time to time to impose and levy rates dues and charges for the use of docks wharves piers and jetties and for the landing of goods wares and merchandise thereat and thereon and such rates and charges to alter and abolish.

To carry out and enforce all Harbour and Quarantine Regulations which shall be lawfully in force within the port.

XXXI. The Superintendent of every Province with the consent of the Governor in Council may levy the following charges—

Superintendent may
levy charges

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(1st.) For every vessel or boat whether coming from seaward or not whether exempted from pilotage fees or not and whether decked or undecked and whether propelled by steam or not navigating or plying whether for hire or not within any port of the Province a port charge not exceeding six pence per registered or measured ton half-yearly.

(2nd.) For every boatman or waterman and every person who shall be the master of or who shall work or navigate any such vessel or boat as last aforesaid used or employed in landing or embarking cargo passengers or luggage within any port of the Province a license fee yearly not exceeding two pounds two shillings.

Superintendent may
define limits

XXXII. For the prevention of doubts and disputes as to the limits of any wharf pier or dock, it shall be lawful for the Superintendent of any Province from time to time as occasion may require by proclamation for that purpose published in the *Gazette* of the Province to define the limits and boundaries for the purposes of this Act of any wharf quay pier or dock within such Province and such proclamation from time to time to revoke and in manner aforesaid to re-define such limits and boundaries and every wharf quay pier or dock so defined or re-defined shall be a wharf quay pier or dock within the meaning and for the purposes of this Act and the limits and boundaries so defined or re-defined shall be deemed to be the limits and boundaries of the same.

Plans of construction
of additional wharves
&c. to be laid before
Superintendent

XXXIII. It shall not be lawful for any person to commence or undertake the construction of any new or additional wharf quay dock pier or other harbour work in any port until he shall have laid before the Superintendent of the Province within which such port is situate detailed plans and specifications of such proposed work nor until the same shall have been approved of by the Superintendent and notice in writing of such approval shall have been given to such person accordingly. And no works executed with such approval shall render any person liable for indictment for nuisance or pesture. Provided always that nothing in this Act contained shall be held to interfere with any rights or privileges of water frontage or any other rights or privileges of any person or persons in to or over any lands reclaimed or to be reclaimed from the sea.

PENALTIES AND THEIR RECOVERY.

Offence incurring
penalty

XXXIV. If any person fails refuses or neglects to do or in any manner obstructs impedes or interferes with the doing of anything enjoined or authorized to be done or wilfully does anything prohibited by this Act or molests or makes use of any threatening or abusive language to any harbour master pilot or other officer whilst in the execution of his duty under this Act or in any other respect offends against any of the provisions of this Act or any bye-law or regulation duly made under authority of this Act every such person in any such case so offending shall where no other penalty is in that behalf specifically provided forfeit a penalty not exceeding fifty pounds.

Penalty for
obstruction

XXXV. If any person wilfully obstructs molests or hinders any engineer surveyor workman laborer or other person employed by the Governor or Superintendent of any Province in the performance of his duty or employment in the execution of this Act every person so offending shall forfeit a penalty not exceeding twenty pounds.

Penalty for wilful
damage to works

XXXVI. If any person wilfully breaks throws down destroys or in anywise damages or injures any wharf quay pier dock shed roadway building or other work whatsoever which is under the charge of the Governor or of any Superintendent every person so offending shall for

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every such offence forfeit a penalty not exceeding fifty pounds over and above the amount of injury or damage done.

XXXVII. If any person wilfully or negligently breaks throws down damages or takes away any lamp lamp-post lamp-iron or other work set up for the purpose of lighting any such wharf quay pier or dock as aforesaid or any such adjoining roadway or street as aforesaid or wilfully extinguishes any light within any such lamp every person so offending shall forfeit for every such offence a penalty not exceeding twenty pounds over and above the amount of injury or damage done.

Penalty for wilful damage to lights

XXXVIII. If any tree is felled by the owner or occupier of any land or by any person employed or authorized by him on the bank of any navigable river or creek so that any part thereof is in or over the water below high water mark and the same is not removed within two days after having been so felled such owner or occupier shall forfeit a penalty not exceeding forty shillings and a further penalty of forty shillings for each day beyond the two days aforesaid during which any such tree so felled as aforesaid so continues on the bank of such navigable river or creek and if any tree is so felled by any unauthorized person such authorized person shall for every such tree so felled forfeit a penalty not exceeding five pounds together with the cost of removing the same.

Trees felled to be removed from rivers &c.

XXXIX. Any person who wilfully injures removes or destroys any buoy beacon or sea mark used for the convenience of navigation or for the preservation of vessels shall be guilty of felony and on conviction of the said offence shall be liable to penal servitude for a period not exceeding four years.

Penalty for removing or defacing buoys &c.

XL. Any person who makes any vessel boat timber or other article fast to any buoy beacon or sea mark and any master or owner of a vessel being navigated without having a pilot on board or the owner of any boat by which any such buoy beacon or sea mark is accidentally removed injured or destroyed who does not forthwith and either with or without demand make good such damage or pay to the Collector of Customs at the port for the purposes of this Act a sum in the judgment of such Collector sufficient to cover the expense of so doing shall for every such offence forfeit a penalty not exceeding one hundred pounds in addition to the cost of repairing such damage.

Accidental injuries to be repaired under penalty

XLI. Any harbour master or other officer or person who refuses or neglects to perform any duty imposed on him by this Act or by any regulations made and issued under the authority of this Act or who through negligence or drunkenness does or occasions any injury to a vessel or to the tackle or furniture thereof or who while in the execution of his duty as such harbor master or other officer or person makes use of threatening or abusive language to the master of any vessel shall forfeit a penalty not exceeding fifty pounds.

Penalty on harbour master for neglect &c.

XLII. Any pilot who refuses neglects or delays to take charge of a vessel without good and sufficient cause in that behalf or quits any vessel departing before the vessel has passed the point or distance which may be fixed for that purpose by the Governor or who by drunkenness renders himself incapable of conducting the vessel or by ignorance or from want of due care does or occasions any injury to the vessel or to the tackle or furniture thereof or makes use of any threatening or abusive language to the master shall on proof of the offence forfeit a penalty not exceeding fifty pounds and shall besides be liable to suspension and dismissal as hereinbefore provided.

Penalty on pilots for misbehaviour &c.

LIII. All sums of money received by virtue and for the purposes of this Act of which the application or disposition for the purposes of this Act is not duly shown or accounted for or for the payment and disbursement of which for such purposes no legal or proper voucher or

Sums unaccounted to be deemed Crown debts

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receipt is produced to the satisfaction of the Auditor of Public Accounts or Provincial Auditor as the case may be shall be and be recoverable as a debt upon record to Her Majesty.

Summary procedure
for breach of bye-
laws

XLIV. Any breach whatsoever of any of the provisions of this Act or of any bye-law or regulation made thereunder shall where no other mode or remedy is by this Act specifically provided be heard and determined in a summary way before any Resident Magistrate or two Justices of the Peace.

What shall be
sufficient averment

XLV. In any proceeding for any offence against this Act the averment that such offence was committed within the limits of the port within which the same is alleged to be committed shall be sufficient without proof of such limits unless the contrary is proved.

Limitation and
regulation of actions.

XLVI. No plaintiff shall recover in any action commenced against any person for anything done in pursuance of this Act unless such action be commenced within three months after the fact committed and unless notice has been given to the defendant one month before such action is commenced of such intended action signed by the attorney of the plaintiff specifying the cost of such action nor shall the plaintiff recover in any such action if tender of sufficient amends has been made to him or his attorney by or on behalf of the defendant before such action brought and in case no such tender is made it shall be lawful for the defendant in any such action at any time before issue joined to pay into Court such sum of money as he thinks proper and the defendant in every such action may plead the general issue and give the special matter in evidence and that the same was done in pursuance and under the authority of this Act and if the same appears to have been so done or if such action or suit has been brought before the expiration of one month next after such notice has been given as aforesaid or after sufficient satisfaction made or tendered as aforesaid or after the time limited for bringing the same as aforesaid then and in every of such cases the jury shall find a verdict for the defendant and upon such verdict or if the plaintiff is nonsuited or discontinues his action or if demurrer or otherwise judgment is given against the plaintiff then and in every such case the defendant shall recover treble costs and shall have the same remedy for recovering the same as any defendant has for his costs in any other case by law.

GENERAL PROVISIONS.

Existing dues and
rates continued

XLVII. Subject to any alteration made by or under authority of this Act and until other provision is made in that behalf under the authority of this Act all lighthouse pilotage wharfage and other dues rates and charges now payable by law within any of the ports of this Colony shall continue to be levied and shall be paid to the Collector of Customs or other person or persons authorized to receive the same at the port where the same are payable.

Lighthouse and
pilotage dues to be
port charges and to
be paid before
clearance

XLVIII. All lighthouse pilotage and other dues and payments whatever hereby made payable by the master of any ship or vessel or in respect of any ship or vessel shall be deemed to be port charges and shall be paid and recovered in the same manner as any port charge is by law payable and recoverable and the clearance of any vessel in respect of which any port charge or any other charge or sum of money has been imposed or is payable under this Act shall be withheld until all such port charges and other charges and sums of money are duly paid satisfied and discharged as by this Act required and if the master of any vessel attempts to take such vessel to sea without such clearance such vessel may be detained.

Funds how to be
dealt with.

XLIX. All lighthouse pilotage and harbour dues leviable under the

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authority of this Act shall be paid by the master of the vessel in respect of which the same shall be payable to the Collector of Customs of the port who shall from time to time pay the amount of such lighthouse dues to the "Public Account" of the Colony and all such pilotage rates and harbour dues shall be paid by the Collector of Customs to the "Provincial Account" of the Province in which the same are levied for the public service of the said Province. Provided that such pilotage rates and harbour dues shall not be paid to such "Provincial Account" unless due provision shall have been made by the Superintendent and Provincial Council of such Province to the satisfaction of the Governor for the maintenance of the pilot and general harbour establishments in respect of which such rates have been paid.

L. The Governor in Council is hereby empowered from time to time to make publish alter modify amend or repeal such bye-laws as to him shall seem meet for carrying into effect and enforcing the general powers and duties hereinbefore vested in and imposed on the said Governor and also all other matters and things whatsoever which he is authorized to do or cause to be done under this Act and for the collection of all dues and sums of money payable under this Act or any regulations or bye-laws made pursuant to this Act and to appoint by such bye-laws such penalties within variable limits as are deemed necessary for enforcing the same. Provided that no such penalty shall exceed the sum of fifty pounds and no such bye-law shall have any effect unless the same shall have been published in the Government *Gazette* of the Colony.

Bye-laws

LI. All bye-laws so made and in force as aforesaid shall be deemed to be incorporated with this Act and shall be of the same force and effect as though the provisions of such bye-laws were expressly enacted in this Act.

Bye-laws deemed part of Act

LII. In all proceedings the production of the *Gazette* containing any such regulations or bye-laws shall alone be sufficient *prima facie* evidence that all the provisions of this Act relating to the making and confirmation of such bye-law have been duly complied with and that such bye-law is in full force and effect and the onus of proving the contrary shall in every case be on the person disputing the validity of such bye-law.

Proof of by-laws

LIII. Where any vessel has been registered at a port in the United Kingdom or any British possession the amount of tonnage specified in the certificate of such registry shall for the purposes of this Act be deemed to be the tonnage of such vessel.

British registry to rule tonnage

LIV. In order to ascertain the tonnage of any vessel not registered as aforesaid as to which any question arises it shall be lawful for any officer of the Customs or other person appointed in that behalf by the Collector of Customs at the port in which such vessel may then be to measure such vessel and such officer or person in measuring such vessel shall follow the regulations contained in the law regulating the measurement of shipping for the time being in force in this Colony.

Tonnage to be measured

LV. In all cases in which no provision or no sufficient provision is made by this Act it shall be lawful for the Governor in Council from time to time for the purpose of facilitating or more effectually carrying into execution any of the objects thereof to make and prescribe all such regulations either general or applicable to particular cases only as he shall think fit and such regulations from time to time to revoke or alter as to the Governor in Council shall appear to be requisite.

Governor in Council may make regulations

Marine.

SCHEDULE.

Schedule

HARBOUR MASTERS' FEES.

For every service performed by a Harbour Master under this Act a sum not exceeding one penny per ton of the vessel in respect of which the service is performed.

PILOTAGE RATES.

For every sailing vessel a sum not exceeding sixpence per ton inwards and the same sum outwards.

For every steam vessel a sum not exceeding fourpence per ton inwards and the same sum outwards.

For every day that a pilot is detained on board any vessel whilst under quarantine or by any act of the master a sum not exceeding twenty shillings per day.

LIGHTHOUSE DUES.

For every steam vessel and for every vessel employed in the coasting trade on entering inwards or clearing at the Customs of this Colony fourpence per ton per voyage.

For every other colonial trading vessel entering inwards or clearing at the Customs of this Colony sixpence per ton per voyage.

For every other vessel entering inwards or clearing at the Customs of this Colony ninepence per ton per voyage.

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES and having this day passed as printed is now ready for presentation to the LEGISLATIVE COUNCIL for their concurrence.

*House of Representatives,
New Zealand, 27th September, 1867.*

Amendments made by the House of Representatives in "The Marine Act 1867."

In clause 7 omit the last sub-section.

After clause 9 take in clause 29 as 10 and clause 28 as 11.

In clause 15 as printed after the word "Governor" in the last line but one insert the words "not exceeding the amount specified in the Schedule to this Act."

In clause 16 immediately before the first proviso insert "reckoning from the date of the issue of such certificate" In the last line but one after the word "Act" to insert "the masters of which do not hold certificates of exemption under the provisions of the said Act" and at the end of the clause to add the following words "Provided further that the Governor shall have power to cancel or revoke any such certificate of exemption for any one or more ports if the master of the vessel in respect of which such certificate has been issued should be found on inquiry to be not sufficiently acquainted with the said port or ports and to be unfit to navigate his vessel into and out of the same Provided moreover that if any master display an exemption flag as aforesaid without a legal right so to do he shall be liable to a penalty not exceeding twenty pounds."

In clause 29 to commence as follows—"The Governor in Council may from time to time make vary and repeal bye-laws and regulations for the following purpose viz." Subdivide the clause into sub-sections In the ninth line after the word "vessel" insert "2. For defining and regulating the conduct and duties of port officers and harbour masters and other persons employed in carrying out the objects of this Act within any port" In the last line but five omit the word "enforce" and substitute "impose" also omit the words "within variable limits" and in the last line but three omit the words "and to direct" and insert in lieu thereof the following—"and such regulations may be so framed as to give a discretion to the Justices or Resident Magistrate adjudicating to impose either a penalty of fifty pounds or any sum not exceeding fifty pounds and where penalties or recurring penalties are inflicted for the non-removal of any obstruction to the navigation of any port the whole or any necessary proportion of any such penalties may be ordered to be appropriated to the removal of such obstruction by the Justices or Resident Magistrate by or before whom any such penalties shall be recovered and such order may be made either at the same time as the conviction or subsequently."

Clause 30 second line after the word "required" insert "subject to the provisions of this Act and of any bye-laws or regulations to be made thereunder by the Governor."

In the first sub-section first line substitute "watermen" for "boatmen" In the sixth line before the word "regulation" insert the words "bye-laws or."

Strike out clause 31.

Clause 33 lines 4 and 6 respectively before the word "Superintendent" insert the words "Governor or."

Clause 47 omit all the words after the word "paid" in the fifth line. *and insert in lieu thereof*

In clause 50 for "Government Gazette of the Colony" read "New Zealand in the same manner as in the same persons as if the same had been made payable by this Act"

Omit clause 55.

In the Schedule—Lighthouse Dues—in lines 2 4 and 5 respectively after the word "Colony" insert "not exceeding."

*line 2 + 9
in the words*

*laws' insert
words "or regulations"*

*persons as if
the same had been
made payable by
this Act*